IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.136 OF 2007

Shri.Syed Khaja Mohiaddin .. Petitioner.

Versus

Union of India & Anr. .. Respondents.

Mr.Suresh Kumar i/b.Uday Shankar Samudrala for petitioner.

Mr.Rajiv Chavan with Ms.Rutuja Ambekar for respondents.

CORAL : S.C.DHARMADHIKARI, J.

DATE : 11th September, 2007.

P.C.:

1. Heard Mr.Suresh Kumar, appearing for the petitioner and Mr.Rajiv Chavan, appearing for the respondents. Perused the Award under challenge.

2. The only contention raised by Mr.Kumar, appearing in support of this petition is that the petitioner could not have been directed to pay a sum of Rs.1,86,002.03 to the Union of India when all genuine claims have been rejected.

3. The petitioner is a Contractor, who is not right in contending that his genuine claims have been rejected.

4. From a perusal of the detailed and reasoned Award, what I find is that, there are claims and counter claims. Insofar as the claims of the Contractor are concerned, the Award proceeds on the basis that the Contractor has proved some of the claims. The claims that have been proved and awarded by the learned Arbitrator are set out in detail in the Award. Mr.Kumar does not dispute that a sum of Rs.5,77,500/- is awarded to the Contractor with regard to a claim made by him for under utilisation of overheads, machinery and labour force. The Award also grants to the Contractor a sum of Rs.5,00,000/- lacs towards the arbitration cost. It also awards to the Contractor Rs.50,000/- under claim No.6. Besides directing the Union of India to release the Bank Guarantee, it also awards claim Nos.4 and 5 to the Contractor.

5. Thus, while awarding the sums to the Contractor, the claims made by Union of India have been rejected. All that is being awarded against the Contractor is payment of Rs.1,86,002.03, for which I find ample material. This figure is taken from the amount of final bills. The amount awarded in favour of the Union of India and against

the petitioner-Contractor is based on the calculations derived from the final bill.

6. It is not possible to uphold the contention of Mr.Kumar that the aforesaid award is vitiated as it grants the claim of Union of India to the above extent. There are several claims, which have been rejected. However, when the calculations were placed before the Arbitrator, he has deducted the excess sum and directed the Contractor to repay the same. That is done by him after awarding several claims of the Contractor. A balanced, equitable approach has been adopted by the Arbitrator and in my view, no error has been committed or any ground under Section 34 of the Arbitration & Conciliation Act, 1996 is made out for interfering with the subject Award.

7. Petition is, therefore, dismissed.

(S.C.Dharmadhikari, J.)